

REMARKS

Claims 1-25, 50-75, and 80-82 are pending in the present application. Applicant respectfully requests reconsideration of the subject application in light of the remarks below. This is submitted in response to the Office Action dated September 15, 2009.

I. STATUS OF THE CLAIMS

In the Office Action, Claims 1-23, 54-62, 67, 69-73, 50-53, 63-66, 74, 80-82 were rejected under 35 U.S.C. § 103(a) (hereinafter, “Section 103(a)”) as being unpatentable over UK Patent Application to MacNamee (GB 2372615, hereinafter, “MacNamee”), in view of newly cited Canadian Patent Application to Tillquist (CA 2306521, hereinafter, “Tillquist”).

Claims 24-25, 48, 68 and 75 was rejected under Section 103(a) as being unpatentable over MacNamee in view of Tillquist and further in view of Official Notice.

Applicant respectfully traverses all rejections and requests reconsideration for all of the pending claims for at least the reasons discussed below.

According to embodiments of the present invention, there are claimed systems and methods solving problems associated with or improving of value-added services structure of charges to customers on accounts in a communication network. The existing accounts with the operator of the communications network are debited/credited through the existing billing system to which the customer already belongs to as part of, owned/operated by the communications network operator. By having the accounts with the operator of the communication network (i.e. the carrier) and its existing billing system, transactions occur without change to the underlying infrastructure of the operator’s billing system, allowing for third party content providers to use the system without need for modification. (See Application, pars. [0009] – [0011]) Applicant therefore respectfully submits that the claims of the present invention are allowable over the cited references as the references do not apply for not disclosing, teaching or suggesting all the limitations of the claims.

A. REJECTION OF CLAIMS UNDER SECTION 103(a), MACNAMEE & TILLQUIST

Claims 1-23, 54-62, 67, 69-73, 50-53, 63-66, 74, 80-82 were rejected under Section 103(a) as being unpatentable over MacNamee in view of Tillquist. Claims 1, 6, 18, 50, 54, 64, 69 and 71 are the independent claim upon which all remaining claims depend directly or indirectly upon. Applicant respectfully traverses Examiner's rejections and submits that these claims are allowable over the applied references for at least the following reasons.

Applicant respectfully submits that a *prima facie* case of obviousness has not been presented since not all three criteria have been satisfied for a showing of obviousness. In the least, the prior art references fail to teach or suggest all of the claimed limitations.

With regard to claims 1 and 69, "both the customer and the payments facilitator each have at least one account with the operator and recorded therewith". In claim 50, the method comprises "instructing the billing system to credit the amount to be paid to the recipient to an account with the operator and recorded with the billing system, the account being owned by a third party." Contrary to the Action, MacNamee and Tillquist do not teach each and every claim limitation as provided in these claims.

Applicant respectfully notes, that contrary to Examiner's contention, Tillquist does not disclose that both the customer and payments facilitator/third party each have an account with the same operator of the communications network and neither does Tillquist disclose that the payments facilitator/third party *account with the operator is recorded with the same billing system*. Examiner has clearly identified that in MacNamee, there is no teaching of a "payment facilitator" along with other limitations of the claims and cites to Tillquist as teaching such payment facilitator. However, at most, Tillquist teaches a "centralized billing service facilitator operating a website" for "posting and paying invoices via the Internet"(pg. 2, claim 6), but without any further teaching of the recited payment facilitator having at least one account with the same operator of the communications network as the customer and further recorded with the same billing system which is the billing system that provides billing functions to the operator for use of the communications network. Tillquist rather teaches transfer of money between bank accounts through a separate website (pg. 3, lines 30-35; pg. 4, lines 1-6) which does not teach the required elements of Applicant's claims.

Tillquist is entirely related to a different system in which billers want to send a customer an invoice for payment through a separate facilitator website. The cited pg. 5, lines 1-10 discuss a biller or a customer being a subscriber of the facilitator and the generating of invoices. Such citation to Tillquist fails to disclose, teach or suggest, the claimed system and method of facilitating payment “using value accredited to a customer of an operator of the communications network” where “both the customer and the payment facilitator each having at least one account with the operator” of the communications network. In Tillquist the facilitator and customer is not shown to have any relation with regard to an account on the underlying communication network carrier since transaction occurs through an independent website. There is no motivation or suggestion to combine Tillquist which deals with posting and paying of invoices via the internet, with MacNamee since neither provide for the claimed structure. Tillquist is entirely missing the required claimed limitation in that the customer of a communications network operator has an account with the communications network operator which provides for the customer’s network communication. It is this customer’s existing account with the operator of the communications network that is debited through the operator’s billing system. Further it is the payment facilitator’s or the recipient’s account with this same operator of the communications network that is credited. It is this same communications carrier that the accounts are on and which allows for the debiting and crediting. Tillquist only discloses a separate “billing facilitator” to which users must log-into and access a website, and the transfer of funds between a bank account of the billed party to the bank account of the biller, which in no manner teaches that the customer and the “payment facilitator” or “recipient” has an account with the operator of the communication network.

Accordingly, there is in fact no teaching whatsoever that the operator of the communications network holds the accounts of both the customer and the payment facilitator nor is there any teaching or suggesting of crediting a payments facilitator/third party account with the same operator of the communications network. In fact, Tillquist teaches away from the claimed “payment facilitator” having an account with the same operator of the communications network as the customer, by teaching that its “facilitator” has its own “website” and “without requiring either party to be a subscriber to the ...facilitator’s system”

(Tillquist, pg. 2, lines 24-27). Accordingly, to have a separate website facilitator not related to any underlying customer's communications network operator further teach away from an account of a "payment facilitator" being with the same operator of the communications network as the customer. It is noted that the claims are dealing with payment facilitation specifically using "value accredited to a customer of an operator of the communications network".

There is no motivation to combine MacNamee and Tillquist to arrive at Applicant's invention, since MacNamee clearly fails to show existence of a payment facilitator with an account on the same operator as the customer and Tillquist's "facilitator" fails to do the same. The whole point of the cited references is to allow for an outside party to facilitate transactions which are not at all related to the same operator of the communications network or its billing system of the customer and accordingly to combine them would not result in Applicant's claimed invention but rather change the principle of Applicant's invention.

With regard to claims 16 and 17, which are both dependent on claims 1 or 6, it has not been shown that their underlying limitations have been provided by MacNamee in view of Tillquist as described above. In particular, the references in combination fail to show "both the customer and the payment facilitator each having at least one account with the operator and recorded with the billing system" nor do they show "both the customer and the recipient each having at least one account with the operator and recorded with the billing system". MacNamee, admittedly, shows no "payment facilitator" and neither does the Tillquist provide for the customer and payment facilitator each having an account with the same operator, nor that the customer and recipient also having an account with the same operator, in both cases recorded with the same billing system.

Similarly with regard to claims 6, 18, 54, 64 and 71, as discussed above, neither MacNamee nor Tillquist disclose that "both the customer and recipient each having at least one account with the operator" of the communications network.

With further regard to claims 17 and 18, contrary to what is cited on pages 7-8 of the Action, where Tillquist is stated to show the elements of the claims, Applicant respectfully contends that Tillquist in no manner provides for the limitations of "the instruction to the billing

system to debt the amount to be paid takes the form of a **command representative of the customer having initiated a communication using the first communication device having a tariff rate closest to the amount to be paid to the recipient**” nor “the payments facilitator...operates to issue an instruction to the billing system in the form of a **command representative of the recipient having made a payment to the operator** equal to the amount to be paid to the recipient.” Page 7, lines 4-12 of Tillquist discusses

“the billing service facilitator may display the amount of the any additional transaction fee and presumably will provide a means of obtaining approval form the customer before effecting the transfer of funds. g. Payment follows pursuant to the manner of payment elected by the customer, upon the customer’s entry of payment approval.”

However, there is no teaching anywhere of the required limitations of the claims since the underlying accounts are not a part of same communication network operator/carrier. Tillquist states an approval is obtained before making a payment, i.e. permission/authorization.

Examiner states this shows “command representative of the customer” but fails to identify the remaining part of the required claimed language of “having initiated a communication using the first communication device...”. The entire claimed limitation of the form of the command is no where disclosed in Tillquist. This does not disclose, teach or suggest that a recipient having an account with the same operator, is shown to have either “made a payment to the operator” on their account with the operator. By showing the “payment to the operator” the recipient’s account will show up as a credit, i.e. receiving an amount. In fact, Tillquist’s “facilitator” (the billing service facilitator) is the actual billing system apart from any operator of the communication network, which completely fails to disclose the structure claimed in Applicant’s claims.

The citation to MacNamee discusses Premium Rate numbers and Automatic Vending on pages 2-4. There is discussion that a premium call tariff is charged to a caller’s telephone bill. However, there is no teaching anywhere of “the recipient having made a payment to the operator”. This recipient, again, is claimed to have an account with the same operator that the customer has their account with. The scenario of the claims provide for a mobile user to pay the account of another mobile user on the same carrier operator. This is nowhere taught in MacNamee on pages 2-4, as there is only a Vendor/Vending Machine shown. If the Vendor

is the “recipient”, there is still no showing that a recipient having an account with the same operator, is shown to have either “made a payment to the operator” on their account with the operator or to “credit the amount ...to the recipient’s at least one account with operator”, the recipient also being a customer of the same operator.

For at least the foregoing reasons, Applicant respectfully submits that claims 1, 6, 50, 54, 69 and 71 are patentable over the combination of MacNamee and Tillquist. Since the dependent claims include all the limitations of their base claims, the respective dependent claims are believed patentable for at least the same reasons as their independent claims. Accordingly, Applicant respectfully requests withdrawal the rejection of the claims 1-23, 54-62, 67, 69-73, 50-53, 63-66, 74, 80-82 under Section 103(a).

B. REJECTION OF CLAIMS 24-25, 68, AND 75 UNDER SECTION 103(a)

Claims 24-25, 68, and 75 are rejected under Section 103(a) as being unpatentable over MacNamee in view of Tillquist and further in view of Official Notice. Applicant respectfully traverses Examiner’s rejections and submits that these claims are allowable over the applied references for at least the following reasons.

These rejected claims depend directly or indirectly from independent claims 1, 6, 18, 50, 54, 64 or 71. These claims have been discussed above with regard to MacNamee and Tillquist. The references fail to teach or suggest each and every underlying limitation of the claims. In particular, the references and Official Notice fail to provide for “both the customer and the payment’s facilitator each have at least one account with the operator and recorded with the billing system...”; “both the customer and recipient each having at least one account with the operator”; “the payment facilitator...operates to issue an instruction to the billing system in the form of a command representative of the recipient having made a payment to the operator equal to the amount to be paid to the recipient” or “to instruct the billing system to credit the specified amount to the recipient’s at least one account”, again the recipient’s account being with the same operator as the customer.

For all the reasons provided above with regard to the independent claims, Applicant respectfully requests withdrawal of the rejection of claims 24-25, 68 and 75 under Section 103(a).

If, for any reason, the Examiner believes that the claims of this application are not yet in full condition for allowance, applicant respectfully requests the Examiner's constructive assistance and suggestions pursuant to the spirit of MPEP § 2173.02 and § 707.07(j). The Examiner is authorized to make any needed minor corrections or changes.

II. CONCLUSION

The above-discussed remarks are believed to place the present Application in condition for allowance. Should the Examiner have any questions regarding the above amendments, the Examiner is requested to telephone Applicant's representative at the number listed below.

Respectfully submitted,

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